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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,048	10/22/2003	Christopher A. Dykes	OM126	6116
26009	7590	08/17/2005	EXAMINER	
ROGER M. RATHBUN 13 MARGARITA COURT HILTON HEAD ISLAND, SC 29926			GIBSON, ROY DEAN	
			ART UNIT	PAPER NUMBER
			3739	

DATE MAILED: 08/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/691,048

Applicant(s)

DYKES ET AL.

Examiner

Roy D. Gibson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings Objections

In Figure 1, the procedure light does not appear to be recessed within the overhead housing.

Claim Rejections - 35 U.S.C. § 112

Claims 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 13 recites the "control handle" is located at the distal end of the "control handle". The examiner suggest the first "control handle" should be "an electrical controller" to correct this.

Claim Rejections - 35 U.S.C. § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 8 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Donnelly et al. (55,453,077) in view of Pickering (4,161,1772). Donnelly et al. disclose an infant warming apparatus comprising a base having an infant platform, an overhead housing and a radiant heater (94) to direct infrared radiation toward the infant (Figure 4 and col. 4, line 4-col. 5, line 35). But, Donnelly et al. fail to disclose a

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procedure or examination light being recessed within the overhead housing for omni-directional movement and positioned so as to direct a beam of light from the source toward the infant platform. But, Pickering disclose a life support chamber for infants with an infant warming light (171) and also teaches an examination light (170), mounted over or above the infant platform, which has omni-directional movement and is positioned so as to direct a beam of light toward the infant platform (Figure 8 and col. 5, line 60-col. 7, line 17 and col. 9, lines 35-44). However, Pickering also fails to specifically disclose the light is recessed within the overhead housing. But, the examiner maintains that the precise location of the procedure light is generally not a patentable feature in and of itself (see MPEP 2114.04 VI, C regarding Rearrangement of Parts) and that one of ordinary skill in the art may have chosen a different design for the location of the light to accomplish the same purpose, since the location has not been disclosed as critical by the applicant. Indeed the versatility of the repositioning capability of the light discloses by Pickering offers some advantages over that of the recessed light claimed by applicant.

Claims 4 and 7-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Donnally/Pickering and further in view of Chang (4,101,957).

As to claims 4, 7, 14, 15 and 19, Chang further discloses a typical ~~the~~ procedure light includes a lens (5) which is movable with respect to the light source (17) to focus the beam of light directed from the light source toward the infant platform and a

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controllable iris (14) to control the size of the beam from the procedure light (Figure 1 and col. 3, lines 30-61).

Further to claims 9, 12-13 and 18, Pickering discloses a procedure light but fails to disclose the inherent switch is located on a control handle (col. 8, lines 36-41). However, the location of the switch is merely a design choice and an alternative location on the panel of the infant warmer is suggested by the applicant in the Specification on page 7, in the second paragraph, thus an indication of the lack of criticality of the location.

Further to claims 10-11 and 20, Chang discloses a filter in conjunction with a spectral correction coating on the back side of the front covering glass which controls the light beam spectral color temperature and, therefore, a predetermined wavelength band which inherently provides phototherapy to an infant (Abstract and col. 4, lines 4-65).

Claims 2-3 and 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Donnelly/Pickering/Chang as applied to claims 1 and 4 above, and further in view of Mendeski (4,646,214). None of the referenced sighted above disclose the details of the housing and the lens holder. However, the examiner maintains it would have been an obvious matter of design choice to a person of ordinary skill in the art to configure the housing and mount the lens as required for its function because Applicant has not disclosed that such a design provides an advantage, is used for a particular purpose, or solves a stated problem. For example, Mendeski (4,646,214) suggests such a

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configuration for a swivel version of a coaxial lighting assembly with the features of these claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Skegin (4,882,667) discloses a miniature lighting fixture with an iris, lens filter holder and filter suitable for a medical examining light.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roy D. Gibson whose telephone number is 571-272-4767. The examiner can normally be reached on M-F, 7:30 am-4:00 pm.

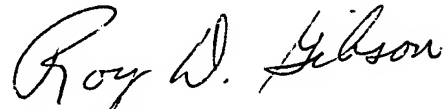
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink that reads "Roy D. Gibson". The signature is written in a cursive, flowing style.

Roy D. Gibson
Primary Examiner
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August 15, 2005